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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

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On November 9, 2005Signature Renée D. East

Typed or

Printed name Renée D. EastDocket Number: 1805(15817)Application No.: 10/034,012Filed: 12/20/2001First Named Inventor: Benjamin J. Parker et al.Art Unit: 2141Examiner: Kristie D. Shingles

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒ attorney or agent of record.Registration Number 31,123☐ attorney or agent acting under 37 CFR 1.34(a).

Registration number if acting under 37 CFR 1.34(a). \_\_\_\_\_

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November 9, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U. S. Patent and Trademark Office, U. S. Department of Commerce, P. O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.**

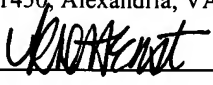
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Date of signature and deposit - November 9, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Benjamin J. Parker et al	)	Group Art Unit: 2141
	)	
Serial No.: 10/034,012	)	Confirmation No.: 1871
	)	
Filed: 12/20/2001	)	Examiner: Kristie D. Shingles
	)	
For: Configuring Computer Network	)	Attorney Docket: 1805(15817)
Communications In Response To	)	
Detected Firewalls	)	

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REMARKS ACCOMPANYING PRE-APPEAL  
BRIEF REQUEST FOR REVIEW

Honorable Sir:

Pursuant to the procedure specified in the Notice published in the Official Gazette on July 12, 2005, review by a pre-appeal brief conference is requested for the following reasons.

**I. Clear Errors in Rejection under 35 USC 102(b)**

Claims 1, 3-12, 14, 15, and 17 stand rejected under 35 USC 102(e) as being anticipated by Xu et al US 2002/0122416 (hereafter Xu '416). The final rejection contains clear errors in that 1) claimed limitations are clearly not met, and 2) the rejection improperly relies on portions of Xu '416 entitled only to a filing date later

that the filing date of the present application. Therefore, the application is not in condition for consideration by the Board of Appeals.

#### Unmet Limitations

Independent claims 1, 12, and 15 relate to connecting at least two users to exchange network packets via an internetwork. They recite that if a respective NAT firewall is in place between a called user and the internetwork, then it is detected whether a respective NAT firewall is in place between the calling user and the internetwork. If a respective NAT firewall is not in place between the calling user and the internetwork, then the calling user's respective global address is transmitted to the called user and the called user establishes a network session for the connection with the calling user by transmitting to the calling user's respective global address. Thus, in view of the discovered NAT firewall configuration, the present invention dynamically reverses the roles of the users' computers for establishing the direct (peer to peer) network session. As explained on pages 2 and 3 of the amendment filed September 20, 2005, the relied on passages from Liu et al '384 (one of the parent cases of Xu '416) relate to operation of a media session module in client 23, and not to operation of a directory server. Rather than operating at the point of creating a session between the caller and callee as in the present invention, Liu et al '384 attempts to deal with the consequences of a NAT server where a network session already exists. Liu et al '384 fails to disclose any method wherein the called party is the one that actually establishes the network session. Furthermore, Liu et al '384 fails to support the transmitting of caller address information to the callee as suggested in the final rejection. There is no teaching of the transmission of the calling user's global address to the called user and the called user subsequently establishing a network session.

Xu et al '322 (another parent of Xu '416 cited in the rejection) relates to use of an intermediary server for communicating between the clients. There is no teaching or suggestion of a method wherein a direct connection bypassing the intermediary server is established by a called party in response to receiving the global address of the calling party.

Liu et al '319 (yet another parent of Xu '416 cited in the rejection) likewise fails to provide any teaching or support for the dynamic reversal of the function of establishing a network session from the calling party to the called party.

#### Improper Reliance on Xu '416

As explained on page 2 of the amendment filed September 20, 2005, and page 2 of the amendment filed May 17, 2005, the application on which Xu '416 is based (Serial No. 10/077,205) was filed on February 15, 2002, which is after the filing date of the present application. The application was a continuation-in-part of earlier applications 09/788,865 (Liu et al publication 2002/0114319A1), 09/819492 (Liu et al publication 2002/0141384A1), and 09/977,438 (Xu et al publication 2002/0114322A1), each of which was filed prior to the present application.

The rejection relies primarily on portions of Xu et al '416 for which there is no corresponding disclosure in the parent applications. The rejection specifically refers to Figures 2b, 5a, and 5b and to paragraphs 0062-0065, 0069, 0070, and 0072 which appear only in Xu et al '416. Since the disclosure relied on was new matter to the application that was filed after the present application, it does not constitute available prior art. Since these non-prior art portions of Xu et al '416 are an integral part of the rejections as stated against each pending claim, the rejection is improper.

If the parent applications in fact taught all the features shown in Xu et al '416, then the rejection would have been based on the parents. Instead, the final rejection persists in using the continuation-in-part application because of later teachings it uniquely supplies. Consequently, the final rejection is not in conformance with sections 102(e) and 103.

## **II. Conclusion**

The final rejection commits clear errors in applying art only available after the critical date and in interpreting that art. Claims 1, 3-12, 14, 15, and 17 are in condition for allowance. Favorable action is respectfully solicited.



Respectfully submitted,

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